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5. Fraud (§ 11*)—Misrepresentations as to Matters of Opinion.—Statements by a vendor to a purchaser that the land contained about 150 acres of timber, of which about 20 acres had been burned over, that the timber when cut into cordwood would readily sell at the local stations on the railroad at \$4 per cord, and that the land was specially adapted to potato culture, and would by the use of fertilizer yield 100 bushels to the acre, were mere statements of opinion, and trade talk, and not statements of ascertained facts, and hence, though untrue, were not actionable as fraudulent representations.

[Ed. Note.—For other cases, see Fraud, Cent. Dig. §§ 12, 13; Dec. Dig. § 11.*]

IVANHOE FURNACE CO. *v.* VIRGINIA & T. TELEPHONE CO. et al.

Jan. 14, 1909.

[63 S. E. 426.]

1. Telegraphs and Telephones (§ 12*)—Connection of Independent Lines—Interchange of Business—Rights of Patrons—Mandamus.—A patron of a mutual telephone company can demand thereof only the same service that it renders to other patrons of the same class, and can only require of another company the use of its system on the same terms accorded to the public generally, and hence mandamus will not lie on his behalf to compel the latter company to connect its lines and exchange service with the subscriber's company on the same terms and condition as it connected with a third company; these being matters of business policy to be determined by the companies for themselves, subject only to the visitatorial authority of the state.

[Ed. Note.—For other cases, see Telegraphs and Telephones, Dec. Dig. § 12.*]

2. Mandamus (§ 151*)—Necessary Parties.—Conceding that an interchange of connections and business between two telephone companies may be required, it cannot and will not be required in mandamus proceedings to which one of them is not a party.

[Ed. Note.—For other cases, see Mandamus, Dec. Dig. § 151.*]

EPES *v.* SAUNDERS et al.

Jan. 14, 1909.

[63 S. E. 428.]

1. Vendor and Purchaser (§ 80*)—Construction and Operation of Contract.—Under an agreement for the payment of a gross sum for a tract of land, on an estimate of a given number of acres, there is a presumption that the quantity influences the price to be paid, and that

*For other cases, see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.